



PUBLIC NOTICE

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DOMESTIC SECTION 214 AUTHORIZATION GRANTED

Applications for Transfer of Control of StarVox Communications, Inc. and Capital Telecommunications, Inc. to U.S. Wireless Data, Inc.

WC Docket No. 07-115

By the Chief, Wireline Competition Bureau:

On May 23, 2007, StarVox Communications, Inc. ("StarVox"), Capital Telecommunications, Inc. (CTI), and U.S. Wireless Data, Inc. ("USWI," collectively with StarVox and CTI, "Applicants") filed applications, pursuant to section 63.03 of the Commission's rules,¹ requesting authority to transfer control of StarVox and CTI to USWI.²

The Commission released a public notice accepting this application for streamlined processing on June 6, 2007.³ On June 20, 2007, the Department of Homeland Security, with the concurrence of the Department of Justice, including the Federal Bureau of Investigation (collectively, the "Executive Branch Agencies"), filed a letter requesting that the Commission defer grant of these applications while the Executive Branch Agencies address potential national security, law enforcement, and public safety concerns.⁴ In response to the requests filed by the Executive Branch Agencies, the Wireline Competition Bureau removed the applications from streamlined review.⁵

¹ 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214.

² Applicants also filed applications for transfer of control associated with authorization for international services. Any action on these domestic 214 applications is without prejudice to Commission action on other related, pending applications.

³ *Domestic Section 214 Applications Filed For the Transfer of Control of StarVox Communications, Inc. and Capital Telecommunications, Inc. to U.S. Wireless Data, Inc.*, WC Docket No. 07-115, Public Notice, DA 07-2350 (rel. June 6, 2007).

⁴ *See* Letter from Stephen Heifetz, Director, Foreign Financial and Investment Issues, United States Department of Homeland Security, to Marlene H. Dortch, FCC, WC Docket No. 07-115 (filed June 20, 2007).

⁵ *Notice of Removal of Domestic Section 214 Applications from Streamlined Treatment*, WC Docket No. 07-115, Public Notice, DA 07-2861 (rel. June 28, 2007).

On August 10, 2007, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations and License ("Petition").⁶ In the Petition, the Executive Branch Agencies advised the Commission that they have no objection to the Commission's granting its consent in this proceeding, provided the Commission conditions the grant on compliance with the terms of the Assurances Letter executed by the Applicants, a copy of which was filed in WC Docket No. 07-115 on August 8, 2007 ("Assurances Letter").⁷

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the applications, subject to compliance with the Assurances Letter, will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to these transactions is dominant with respect to any domestic service.

Consistent with Commission precedent, the Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.⁸ Therefore, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission's rules,⁹ the Wireline Competition Bureau hereby grants the applications discussed in this Public Notice.

Pursuant to section 1.103 of the Commission's rules, the grant is effective upon release of this Public Notice.¹⁰ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within 30 days of the date of this Public Notice.¹¹

For further information, please contact Jodie May at (202) 418-0913.

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⁶ Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 07-115 and ITC-T/C-20070501-00173, ITC-T/C-20070501-00175 (Aug. 10, 2007).

⁷ See Letter from Jonathan S. Marashlian, Counsel for StarVox and CTI, to Sigal P. Mandelker, U.S. Department of Justice, Stewart A. Baker, U.S. Department of Homeland Security, Elaine N. Lammert, FBI, WC Docket No. 07-115 (dated July 25, 2007).

⁸ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) ("*Foreign Participation Order*"), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. See *Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.

⁹ 47 C.F.R. § 0.291.

¹⁰ See 47 C.F.R. § 1.103.

¹¹ See 47 C.F.R. §§ 1.106, 1.115.